

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 533

BY EDUCATION COMMITTEE

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5205, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A PETITION SUBMITTED TO THE BOARD OF TRUSTEES, TO REVISE PROVISIONS RELATING TO PETITIONS RECEIVED BY AN AUTHORIZED CHARTERING ENTITY, TO REVISE PROVISIONS RELATING TO A PUBLIC HEARING, TO REVISE CERTAIN TIMING PROVISIONS, TO PROVIDE FOR AN AGREEMENT, TO PROVIDE FOR A PRIMARY ATTENDANCE AREA, TO REVISE PROVISIONS RELATING TO ADMISSION PROCEDURES, TO REVISE PROVISIONS RELATING TO TRANSPORTATION SERVICES, TO ESTABLISH PROVISIONS RELATING TO A CHARTER FOR A PUBLIC VIRTUAL SCHOOL, TO ELIMINATE LANGUAGE RELATING TO A PUBLIC CHARTER SCHOOL WORKSHOP AND TO ELIMINATE LANGUAGE RELATING TO A CHARTER FOR A PUBLIC VIRTUAL CHARTER SCHOOL; AMENDING SECTION 33-5205A, IDAHO CODE, TO REVISE TERMINOLOGY RELATING TO THE TRANSFER OF A CHARTER AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-5206, IDAHO CODE, TO REVISE PROVISIONS RELATING TO ATTENDANCE AREA, TO ESTABLISH PROVISIONS RELATING TO REVISION OF A CHARTER AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 33-5207, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE REVIEW OF A CHARTER PETITION; AMENDING SECTION 33-5208, IDAHO CODE, TO ELIMINATE OBSOLETE LANGUAGE AND TO REMOVE A CODE REFERENCE; AMENDING SECTION 33-5209, IDAHO CODE, TO ELIMINATE LANGUAGE RELATING TO THE REVISION OF A CHARTER; AMENDING SECTION 33-5210, IDAHO CODE, TO PROVIDE THAT CERTAIN PUBLIC CHARTER SCHOOLS ARE SUBJECT TO RULES; AMENDING SECTION 33-5211, IDAHO CODE, TO REVISE PROVISIONS RELATING TO ASSISTANCE PROVIDED BY THE STATE DEPARTMENT OF EDUCATION; AMENDING SECTION 33-5213, IDAHO CODE, TO REVISE PROVISIONS RELATING TO TERMS OF OFFICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1619, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AND AMENDING SECTION 33-5202A, IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 33-5205, Idaho Code, be, and the same is hereby amended to read as follows:

33-5205. PETITION TO ESTABLISH PUBLIC CHARTER SCHOOL. (1) Any group of persons may petition to establish a new public charter school, or to convert an existing traditional public school to a public charter school.

(a) A petition to establish a new public charter school, including a public virtual charter school, shall be signed by not fewer than thirty (30) qualified electors of the attendance area designated in the petition. Proof of elector qualifications shall be provided with the petition.

(b) A petition to establish a new public virtual school must be submitted directly to the public charter school commission. A petition to

1 establish a new public charter school, other than a new public virtual  
 2 school, shall first be submitted to the local board of trustees in which  
 3 the public charter school will be located. A petition shall be consid-  
 4 ered to be received by an authorized chartering entity as of the next  
 5 scheduled meeting of the authorized chartering entity after submission  
 6 of the petition.

7 (c) The board of trustees may either: (i) consider the petition and ap-  
 8 prove the charter; or (ii) consider the petition and deny the charter;  
 9 or (iii) refer the petition to the public charter school commission, but  
 10 such referral shall not be made until the local board has documented its  
 11 due diligence in considering the petition. Such documentation shall be  
 12 submitted with the petition to the public charter school commission. If  
 13 the petitioners and the local board of trustees have not reached mutual  
 14 agreement on the provisions of the charter, after a reasonable and good  
 15 faith effort, within sixty seventy-five (6075) days from the date the  
 16 charter petition is received, the petitioners may withdraw their peti-  
 17 tion from the local board of trustees and may submit their charter peti-  
 18 tion to the public charter school commission, ~~provided it is signed by~~  
 19 ~~thirty (30) qualified electors as required by subsection (1) (a) of this~~  
 20 ~~section~~. Documentation of the reasonable and good faith effort between  
 21 the petitioners and the local board of trustees must be submitted with  
 22 the petition to the public charter school commission.

23 (d) The public charter school commission may either: (i) consider the  
 24 petition and approve the charter; or (ii) consider the petition and deny  
 25 the charter.

26 (e) A petition to convert an existing traditional public school shall  
 27 be submitted to the board of trustees of the district in which the school  
 28 is located for review and approval. The petition shall be signed by  
 29 not fewer than sixty percent (60%) of the teachers currently employed  
 30 by the school district at the school to be converted, and by one (1) or  
 31 more parents or guardians of not fewer than sixty percent (60%) of the  
 32 students currently attending the school to be converted. Each petition  
 33 submitted to convert an existing school or to establish a new charter  
 34 school shall contain a copy of the articles of incorporation and the  
 35 bylaws of the nonprofit corporation, which shall be deemed incorporated  
 36 into the petition.

37 (2) Not later than sixty seventy-five (6075) days after receiving a pe-  
 38 ~~tition signed by thirty (30) qualified electors as required by subsection~~  
 39 ~~(1) (a) of this section~~, the authorized chartering entity shall hold a public  
 40 hearing for the purpose of discussing the provisions of the charter, at which  
 41 time the authorized chartering entity shall consider the merits of the pe-  
 42 tition and the level of employee and parental support for the petition. In  
 43 the case of a petition submitted to the public charter school commission,  
 44 such public hearing must be not later than sixty seventy-five (6075) days af-  
 45 ter receipt of the petition, which may be extended to ninety (90) days for an  
 46 additional specified period of time if both parties agree to an extension.  
 47 Such agreement shall be established in writing and signed by representatives  
 48 of both parties.

49 In the case of a petition for a public virtual charter school, if the  
 50 primary attendance area described in the petition of a proposed public vir-

1 tual charter school extends within the boundaries of five (5) or fewer local  
 2 school districts, the public charter school commission shall provide notice  
 3 in writing of the public hearing no less than thirty (30) days prior to such  
 4 public hearing to those local school districts. Such public hearing shall  
 5 include any oral or written comments that an authorized representative of  
 6 the local school districts may provide regarding the merits of the petition  
 7 and any potential impacts on the school districts.

8 In the case of a petition for a non-virtual public charter school sub-  
 9 mitted to the public charter school commission, the board of the district in  
 10 which the proposed public charter school will be physically located, shall  
 11 be notified of the hearing in writing, by the public charter school commis-  
 12 sion, no less than thirty (30) days prior to the public hearing. Such public  
 13 hearing shall include any oral or written comments that an authorized repre-  
 14 sentative of the school district in which the proposed public charter school  
 15 would be physically located may provide regarding the merits of the petition  
 16 and any potential impacts on the school district. The hearing shall include  
 17 any oral or written comments that petitioners may provide regarding any po-  
 18 tential impacts on such school district. If the school district chooses not  
 19 to provide any oral or written comments as provided for in this subsection  
 20 (2), such school district shall notify the public charter school commission  
 21 of such decision. Following review of any petition and any public hearing  
 22 provided for in this section, the authorized chartering entity shall either  
 23 approve or deny the charter within sixty seventy-five (60/75) days after the  
 24 date of the public hearing, provided however, that the date may be extended  
 25 by an additional sixty (60) days specified period of time if the petition  
 26 fails to contain all of the information required in this section, or if both  
 27 parties agree to the extension. Such agreement shall be established in writ-  
 28 ing and signed by representatives of both parties. This public hearing shall  
 29 be an opportunity for public participation and oral presentation by the pub-  
 30 lic. This hearing is not a contested case hearing as described in chapter 52,  
 31 title 67, Idaho Code.

32 (3) An authorized chartering entity may approve a charter under the  
 33 provisions of this chapter only if it determines that the petition contains  
 34 the requisite signatures, the information required by subsections (4) and  
 35 (5) of this section, and additional statements describing all of the follow-  
 36 ing:

37 (a) The proposed educational program of the public charter school, de-  
 38 signed among other things, to identify what it means to be an "educated  
 39 person" in the twenty-first century, and how learning best occurs. The  
 40 goals identified in the program shall include how all educational thor-  
 41 oughness standards as defined in section 33-1612, Idaho Code, shall be  
 42 fulfilled.

43 (b) The measurable student educational standards identified for use  
 44 by the public charter school. "Student educational standards" for the  
 45 purpose of this chapter means the extent to which all students of the  
 46 public charter school demonstrate they have attained the skills and  
 47 knowledge specified as goals in the school's educational program.

48 (c) The method by which student progress in meeting those student edu-  
 49 cational standards is to be measured.

(d) A provision by which students of the public charter school will be tested with the same standardized tests as other Idaho public school students.

(e) A provision which ensures that the public charter school shall be state accredited as provided by rule of the state board of education.

(f) The governance structure of the public charter school including, but not limited to, the person or entity who shall be legally accountable for the operation of the public charter school, and the process to be followed by the public charter school to ensure parental involvement.

(g) The qualifications to be met by individuals employed by the public charter school. Instructional staff shall be certified teachers as provided by rule of the state board of education.

(h) The procedures that the public charter school will follow to ensure the health and safety of students and staff.

(i) A plan for the requirements of section 33-205, Idaho Code, for the denial of school attendance to any student who is an habitual truant, as defined in section 33-206, Idaho Code, or who is incorrigible, or whose conduct, in the judgment of the board of directors of the public charter school, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public charter school is detrimental to the health and safety of other pupils, or who has been expelled from another school district in this state or any other state.

(j) The primary attendance area of the charter school, which shall be composed of a compact and contiguous area. For the purposes of this section, if services are available to students throughout the state, the state of Idaho is considered a compact and contiguous area.

(k) Admission procedures, including provision for overenrollment. Such admission procedures shall provide that the initial admission procedures for a new public charter school, including provision for overenrollment, will be determined by lottery or other random method, except as otherwise provided herein. If initial capacity is insufficient to enroll all pupils who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; second, to siblings of pupils already selected by the lottery or other random method; and third, to students residing within the primary attendance area of the public charter school; and fourth, by an equitable selection process such as ~~by a~~ lottery or other random method. If so stated in its petition, a new public charter school may include the children of full-time employees of the public charter school within the first priority group subject to the limitations therein. Otherwise, such children shall be included in the ~~third~~ highest priority group for which they would otherwise be eligible. If capacity is insufficient to enroll all pupils who submit a timely application ~~who submit a timely application,~~ then the admission procedures may provide that preference shall be given in the following order: first, to pupils returning to the

public charter school in the second or any subsequent year of its operation; second, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; third, to siblings of pupils already enrolled in the public charter school; ~~and fourth, to students residing within the primary attendance area of the public charter school;~~ and fifth, by an equitable selection process such as ~~by a~~ lottery or other random method. There shall be no carryover from year to year of the list maintained to fill vacancies. A new lottery shall be conducted each year to fill vacancies which become available. If so stated in its petition, a public charter school may include the following children within the second priority group subject to the limitations therein:

(i) The children of full-time employees of the public charter school;

(ii) Children who previously attended the public charter school within the previous three (3) school years, but who withdrew as a result of the relocation of a parent or guardian due to an academic sabbatical, employer or military transfer or reassignment.

Otherwise, such children shall be included in the ~~fourth~~ highest priority group for which they would otherwise be eligible.

~~(k)~~ l) The manner in which ~~an~~ annual audits of the financial and programmatic operations of the public charter school ~~is~~ are to be conducted.

~~(l)~~ m) The disciplinary procedures that the public charter school will utilize, including the procedure by which students may be suspended, expelled and reenrolled, and the procedures required by section 33-210, Idaho Code.

~~(m)~~ n) A provision which ensures that all staff members of the public charter school will be covered by the public employee retirement system, federal social security, unemployment insurance, worker's compensation insurance, and health insurance.

~~(n)~~ o) The public school attendance alternative for students residing within the school district who choose not to attend the public charter school.

~~(o)~~ p) A description of the transfer rights of any employee choosing to work in a public charter school that is approved by the board of trustees of a school district, and the rights of such employees to return to any noncharter school in the same school district after employment at such charter school.

~~(p)~~ q) A provision which ensures that the staff of the public charter school shall be considered a separate unit for purposes of collective bargaining.

~~(q)~~ r) The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal individuals with disabilities education act, including disciplinary procedures for these students.

~~(r)~~ s) A plan for working with parents who have students who are dually enrolled pursuant to section 33-203, Idaho Code.

~~(s)~~ t) The process by which the citizens in the ~~area of~~ primary attendance area shall be made aware of the enrollment opportunities of the public charter school.

~~(tu)~~ A proposal for transportation services ~~as required by section 33-5208(4), Idaho Code~~ including estimated first year costs.

~~(uv)~~ A plan for termination of the charter by the board of directors, to include:

(i) Identification of who is responsible for dissolution of the charter school;

(ii) A description of how payment to creditors will be handled;

(iii) A procedure for transferring all records of students with notice to parents of how to request a transfer of student records to a specific school; and

(iv) A plan for the disposal of the public charter school's assets.

(4) The public charter school commission may approve a charter for a public virtual school under the provisions of this chapter only if it determines that the petition contains the requirements of subsections (3) and (5) of this section and the additional statements describing the following:

(a) The learning management system by which courses will be delivered;

(b) The role of the online teacher, including the consistent availability of the teacher to provide guidance around course material, methods of individualized learning in the online course and the means by which student work will be assessed;

(c) A plan for the provision of professional development specific to the public virtual school environment;

(d) The means by which public virtual school students will receive appropriate teacher-to-student interaction, including timely and frequent feedback about student progress;

(e) The means by which the public virtual school will verify student attendance and award course credit. Attendance at public virtual schools shall focus primarily on coursework and activities that are correlated to the Idaho state thoroughness standards;

(f) A plan for the provision of technical support relevant to the delivery of online courses;

(g) The means by which the public virtual school will provide opportunity for student-to-student interaction; and

(h) A plan for ensuring equal access to all students, including the provision of necessary hardware, software and internet connectivity required for participation in online coursework.

(5) The petitioner shall provide information regarding the proposed operation and potential effects of the public charter school including, but not limited to, the facilities to be utilized by the public charter school, the manner in which administrative services of the public charter school are to be provided and the potential civil liability effects upon the public charter school and upon the authorized chartering entity.

~~(5) At least one (1) person among a group of petitioners of a prospective public charter school shall attend a public charter school workshop offered by the state department of education. The state department of education shall provide notice of dates and locations when workshops will be held, and shall provide proof of attendance to workshop attendees. Such proof shall be submitted by the petitioners to an authorized chartering entity along with the charter petition.~~

~~(6) The public charter school commission may approve a charter for a public virtual school under the provisions of this chapter only if it determines that the petition contains the requirements of subsections (3) and (4) of this section and the additional statements describing the following:~~

~~(a) The learning management system by which courses will be delivered;~~

~~(b) The role of the online teacher, including the consistent availability of the teacher to provide guidance around course material, methods of individualized learning in the online course and the means by which student work will be assessed;~~

~~(c) A plan for the provision of professional development specific to the public virtual school environment;~~

~~(d) The means by which public virtual school students will receive appropriate teacher-to-student interaction, including timely, frequent feedback about student progress;~~

~~(e) The means by which the public virtual school will verify student attendance and award course credit. Attendance at public virtual schools shall focus primarily on coursework and activities that are correlated to the Idaho state thoroughness standards;~~

~~(f) A plan for the provision of technical support relevant to the delivery of online courses;~~

~~(g) The means by which the public virtual school will provide opportunity for student-to-student interaction; and~~

~~(h) A plan for ensuring equal access to all students, including the provision of necessary hardware, software and internet connectivity required for participation in online coursework.~~

SECTION 2. That Section 33-5205A, Idaho Code, be, and the same is hereby amended to read as follows:

33-5205A. TRANSFER OF CHARTER. (1) A charter for a public charter school approved by the board of trustees of a local school district may be transferred to, and placed under the chartering authority of, the public charter school commission if the board of trustees of such local school district, the public charter school commission, and the board of directors of the public charter school all agree to such transfer, including any revision to the charter that may be required in connection with such transfer. A charter for a public charter school approved by the public charter school commission may be transferred to, and placed under the chartering authority of, the board of trustees of the local school district in which the public charter school is located if the public charter school commission, the board of trustees of such local school district, and the board of directors of the public charter school all agree to such transfer, including any revisions to the charter that may be required in connection with such transfer. A request to transfer a charter may be initiated by the board of directors of a public charter school or by the authorized chartering entity with chartering authority over the charter of such public charter school.

(2) A public charter school, approved ~~authorized~~ by the public charter school commission, which has a primary attendance area located within more than one (1) school district, may transfer the physical location of its public charter school within its primary attendance area to locate the facilities within the boundaries of another school district within the approved

1 primary attendance area if the public charter school commission, the board  
 2 of trustees of each of the relevant school districts and the board of direc-  
 3 tors of the public charter school all approve of such transfer of facilities  
 4 location, and if the public charter school commission approves any revisions  
 5 to the charter that may be required in connection with such transfer.

6 (3) If all parties fail to reach agreement in regard to the request to  
 7 transfer a charter, as required herein, then the matter may be appealed di-  
 8 rectly to the state board of education. With respect to such appeal, the  
 9 state board of education shall substantially follow the procedure as pro-  
 10 vided in section 33-5207(5)(b), Idaho Code. A transferred charter school  
 11 shall not be considered a new public charter school, and shall not be subject  
 12 to the limitations of section 33-5203(2), Idaho Code.

13 SECTION 3. That Section 33-5206, Idaho Code, be, and the same is hereby  
 14 amended to read as follows:

15 33-5206. REQUIREMENTS AND PROHIBITIONS UPON APPROVAL OF A PUBLIC  
 16 CHARTER SCHOOL. (1) In addition to any other requirements imposed in this  
 17 chapter, a public charter school shall be nonsectarian in its programs,  
 18 affiliations, admission policies, employment practices, and all other op-  
 19 erations, shall not charge tuition, levy taxes or issue bonds, and shall  
 20 not discriminate against any student on any basis prohibited by the federal  
 21 or state constitutions or any federal, state or local law. Admission to  
 22 a public charter school shall not be determined according to the place of  
 23 residence of the student, or of the student's parent or guardian within the  
 24 district, except that a new or conversion public charter school established  
 25 under the provisions of this chapter shall adopt and maintain a policy giving  
 26 admission preference to students who reside within the primary attendance  
 27 area of that public charter school. ~~The attendance area of a charter school,~~  
 28 ~~as described in the petition, shall be composed of compact and contiguous~~  
 29 ~~area. For the purposes of this section, if services are available to stu-~~  
 30 ~~dents throughout the state, the state of Idaho is considered a compact and~~  
 31 ~~contiguous area.~~

32 (2) No board of trustees shall require any employee of the school dis-  
 33 trict to be involuntarily assigned to work in a public charter school.

34 (3) Certified teachers in a public charter school shall be considered  
 35 public school teachers. Educational experience shall accrue for service in  
 36 a public charter school and such experience shall be counted by any school  
 37 district for any teacher who has been employed in a public charter school.

38 (4) Employment of charter school teachers and administrators shall be  
 39 on written contract in form as approved by the state superintendent of public  
 40 instruction, conditioned upon a valid certificate being held by such profes-  
 41 sional personnel at the time of entering upon the duties thereunder.

42 (5) No board of trustees shall require any student enrolled in the  
 43 school district to attend a public charter school.

44 (6) Upon approval of the petition by the authorized chartering entity,  
 45 the petitioner shall provide written notice of that approval, including a  
 46 copy of the approved petition, to the state board of education. For the pur-  
 47 pose of implementing the provisions of section 33-5203(2), Idaho Code, the  
 48 state board of education shall assign a number to each petition it receives.



Petitions shall be numbered based on the chronological order in which notice of the approved petition is received by the state board of education.

(7) Each public charter school shall annually submit a report to the authorized chartering entity which approved its charter. The report shall contain the audit of the fiscal and programmatic operations as required in section 33-5205(3)(~~k~~1), Idaho Code, a report on student progress based on the public charter school's measurable student educational standards identified in section 33-5205(3)(b), Idaho Code, and a copy of the public charter school's accreditation report.

(8) A public charter school or the authorized chartering entity may enter into negotiations to revise its charter at any time. A public charter school may petition to revise its charter at any time. The authorized chartering entity's review of the revised petition shall be limited in scope solely to the proposed revisions. In those instances where a non-virtual public charter school submits a proposed charter revision to the public charter school commission and such revision includes a proposal to increase such public charter school's approved student enrollment cap by ten percent (10%) or more, the commission shall hold a public hearing on such petition. The public charter school commission shall provide the board of the local school district in which the public charter school is physically located, notice in writing of such hearing, no later than thirty (30) days prior to the hearing. The public hearing shall include any oral or written comments that an authorized representative of the school district in which the public charter school is physically located may provide regarding the impact of the proposed charter revision upon the school district. Such public hearing shall also include any oral or written comments that any petitioner may provide regarding the impact of the proposed charter revision upon such school district.

(9) When a charter is revoked pursuant to section 33-5209, Idaho Code, or the board of directors of the public charter school terminates the charter, the assets of the public charter school remaining after all debts of the public charter school have been satisfied must be returned to the authorized chartering entity for distribution in accordance with applicable law.

SECTION 4. That Section 33-5207, Idaho Code, be, and the same is hereby amended to read as follows:

33-5207. CHARTER APPEAL PROCEDURE. (1) If a local school board of trustees, acting in its capacity as an authorized chartering entity, approves a petition for the conversion of an existing traditional public school within the school district over the objection of thirty (30) or more persons or employees of the district, or if an authorized chartering entity denies a petition for the establishment of a new public charter school for any reason including, but not limited to, failure by the petitioner to follow procedures or for failure to provide required information, then such decisions may be appealed to the state superintendent of public instruction within thirty (30) days of the date of the written decision, at the request of persons opposing the conversion of an existing traditional public school, or at the request of the petitioner whose request for a new charter was denied.

(2) The state superintendent of public instruction shall select a hearing officer to review the action of the authorized chartering entity,

pursuant to section 67-5242, Idaho Code. The hearing officer shall, within thirty (30) days of receipt of the request, review the full record regarding the charter petition and convene a public hearing regarding the charter petition. Within ten (10) days of the public hearing, the hearing officer shall submit a written recommendation to the authorized chartering entity and to the persons requesting the review. The recommendation by the hearing officer either to affirm or reverse the decision of the authorized chartering entity shall be based upon the full record regarding the charter petition, including the standards and criteria contained in this chapter and upon any public charter school rules adopted by the state board of education. The recommendation shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the recommendations based on the applicable statutory provisions and factual information contained in the record.

(3) Within thirty (30) days following receipt of the hearing officer's written recommendation, the authorized chartering entity shall hold a meeting open to the public for the purpose of reviewing the hearing officer's written recommendation. Within ten (10) days of such meeting, the authorized chartering entity shall either affirm or reverse its initial decision. The authorized chartering entity's decision shall be in writing and contain findings which explain the reasons for its decision.

(4) If, upon reconsideration of a decision to approve the conversion of a traditional public school to a public charter school, the local school board:

(a) Affirms its initial decision to authorize such conversion, the charter shall be approved and there shall be no further appeal.

(b) Reverses its initial decision and denies the conversion, that decision is final and there shall be no further appeal.

(5) If, upon reconsideration of a decision to deny a petition for a public charter school, the authorized chartering entity:

(a) Reverses its initial decision and approves the public charter school petition, there shall be no further appeal.

(b) Affirms its initial decision denying the public charter school petition, the board of directors of the nonprofit corporation identified in the petition may appeal to the state board of education. The state board of education shall hold a public hearing within a reasonable time after receiving notice of such appeal but no later than sixty (60) calendar days after receiving such notice, and after the public hearing, shall take any of the following actions: (i) approve or deny the petition for the public charter school, provided that the state board of education shall only approve the petition if it determines that the authorized chartering entity failed to appropriately consider the charter petition, or if it acted in an arbitrary manner in denying the petition; (ii) remand the matter back to the authorized chartering entity, which shall have authority to further review and act on such matter as directed by the state board of education; or (iii) redirect the matter to another authorized chartering entity for further review as directed by the state board of education. Such public hearing shall be conducted pursuant to procedures as set by the state board of education.

1 (6) A public charter school for which a charter is approved by the state  
2 board of education shall qualify fully as a public charter school for all  
3 funding and other purposes of this chapter. The public charter school com-  
4 mission shall assume the role of the authorized chartering entity for any  
5 charter approved by the state board of education as provided in subsection  
6 (5) (b) of this section. Employees of a public charter school approved by  
7 the state board of education shall not be considered employees of the local  
8 school district in which the public charter school is located, nor of the  
9 state board of education, nor of the commission.

10 (7) The decision of the state board of education shall be subject to re-  
11 view pursuant to chapter 52, title 67, Idaho Code. Nothing in this section  
12 shall prevent a petitioner from bringing a new petition for a public charter  
13 school at a later time.

14 (8) There shall be no appeal of a decision by a local school board of  
15 trustees which denies the conversion of an existing traditional public  
16 school within that district to a public charter school, or by an authorized  
17 chartering entity which approves a petition for a public charter school.

18 SECTION 5. That Section 33-5208, Idaho Code, be, and the same is hereby  
19 amended to read as follows:

20 33-5208. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. Except as provided  
21 in subsection (8) of this section, from the state educational support pro-  
22 gram the state department of education shall make the following apportion-  
23 ment to each public charter school for each fiscal year based on attendance  
24 figures submitted in a manner and time as required by the department of edu-  
25 cation:

26 (1) Per student support. Computation of support units for each public  
27 charter school shall be calculated as if it were a separate school accord-  
28 ing to the schedules in section 33-1002(4), Idaho Code, except that public  
29 charter schools with fewer than one hundred (100) secondary ADA shall use a  
30 divisor of twelve (12) and the minimum units shall not apply, and no public  
31 charter school shall receive an increase in support units that exceeds the  
32 support units it received in the prior year by more than thirty (30). Funding  
33 from the state educational support program shall be equal to the total dis-  
34 tribution factor, plus the salary-based apportionment provided in chapter  
35 10, title 33, Idaho Code. Provided however, any public charter school that  
36 is formed by the conversion of an existing traditional public school shall  
37 be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no  
38 lower than the divisors of the school district in which the traditional pub-  
39 lic school is located, for each category of pupils listed.

40 (2) Special education. For each student enrolled in the public charter  
41 school who is entitled to special education services, the state and federal  
42 funds from the exceptional child education program for that student that  
43 would have been apportioned for that student to the school district in which  
44 the public charter school is located.

45 (3) Alternative school support. Public charter schools may qualify un-  
46 der the provisions of sections 33-1002 and 33-1002C, Idaho Code, provided  
47 the public charter school meets the necessary statutory requirements, and  
48 students qualify for attendance at an alternative school as provided by rule  
49 of the state board of education.

1 (4) Transportation support. Support shall be paid to the public char-  
 2 ter school as provided in chapter 15, title 33, Idaho Code, and section  
 3 33-1006, Idaho Code. Each public charter school shall furnish the depart-  
 4 ment with an enrollment count as of the first Friday in November, of public  
 5 charter school students who are eligible for reimbursement of transporta-  
 6 tion costs under the provisions of this subsection and who reside more than  
 7 one and one-half (1 1/2) miles from the school. ~~For charter schools in the~~  
 8 ~~initial year of operation, the petition shall include a proposal for trans-~~  
 9 ~~portation services with an estimated first year cost.~~ The state department  
 10 of education is authorized to include in the annual appropriation to the  
 11 charter school sixty percent (60%) of the estimated transportation cost.  
 12 The final appropriation payment in July shall reflect reimbursements of  
 13 actual costs pursuant to section 33-1006, Idaho Code. To be eligible for  
 14 state reimbursement under the provisions of section 33-1006, Idaho Code,  
 15 the student to be transported must reside within the public charter school's  
 16 primary attendance zone area, and must meet at least one (1) of the following  
 17 two (2) criteria:

18 (a) The student resides within the school district in which the public  
 19 charter school is physically located; or

20 (b) The student resides within fifteen (15) miles of the public charter  
 21 school, by road.

22 The limitations placed by this subsection on the reimbursement of  
 23 transportation costs for certain students shall not apply to public virtual  
 24 schools.

25 (5) Payment schedule. The state department of education is authorized  
 26 to make an advance payment of twenty-five percent (25%) of a public charter  
 27 school's estimated annual apportionment for its first year of operation, and  
 28 each year thereafter, provided the public charter school has an increase of  
 29 student population in any given year of twenty (20) students or more, to as-  
 30 sist the school with initial start-up costs or payroll obligations.

31 (a) For a ~~state~~ public charter school to receive the advance payment,  
 32 the school shall submit its anticipated fall membership for each grade  
 33 level to the state department of education by June 1.

34 (b) Using the figures provided by the public charter school, the state  
 35 department of education shall determine an estimated annual apportion-  
 36 ment from which the amount of the advance payment shall be calculated.  
 37 Advance payment shall be made to the school on or after July 1 but no  
 38 later than July 31.

39 (c) All subsequent payments, taking into account the one-time advance  
 40 payment made for the first year of operation, shall be made to the public  
 41 charter school in the same manner as other traditional public schools in  
 42 accordance with the provisions of section 33-1009, Idaho Code.

43 A public charter school shall comply with all applicable fiscal requirements  
 44 of law, ~~except that the following provisions shall not be applicable to~~  
 45 ~~public charter schools: section 33-1003B, Idaho Code, relating to guaran-~~  
 46 ~~teed minimum support; that portion of section 33-1004, Idaho Code, relating~~  
 47 ~~to reduction of the administrative and instructional staff allowance when~~  
 48 ~~there is a discrepancy between the number allowed and the number actually em-~~  
 49 ~~ployed; and section 33-1004E, Idaho Code, for calculation of district staff~~  
 50 ~~indices.~~

1 (6) Nothing in this chapter shall be construed to prohibit any private  
 2 person or organization from providing funding or other financial assistance  
 3 to the establishment or operation of a public charter school.

4 (7) Nothing in this chapter shall prevent a public charter school from  
 5 applying for federal grant moneys.

6 ~~(8) (a) For the period July 1, 2003, through June 30, 2005, all pub-~~  
 7 ~~lic virtual schools shall be assigned divisors, pursuant to section~~  
 8 ~~33-1002, Idaho Code, that are no higher than the median divisor shown~~  
 9 ~~for each respective category of pupils, among the possible divisors~~  
 10 ~~listed, for each respective category of pupils that contains more than~~  
 11 ~~one (1) divisor. If there is an even number of possible divisors listed~~  
 12 ~~for a particular category of pupils, then the lesser of the two (2) me-~~  
 13 ~~edian divisors shall be used. For the period July 1, 2005, through June~~  
 14 ~~30, 2007, all public virtual schools shall be assigned divisors, pur-~~  
 15 ~~suant to section 33-1002, Idaho Code, that are no higher than the second~~  
 16 ~~highest divisor shown, among the possible divisors listed, for each~~  
 17 ~~respective category of pupils that contains more than one (1) divisor.~~  
 18 ~~The divisor provisions contained herein shall only be applicable to~~  
 19 ~~the number of pupils in average daily attendance in such public virtual~~  
 20 ~~schools for the period July 1, 2003, through June 30, 2004. If the num-~~  
 21 ~~ber of pupils in average daily attendance in any particular category~~  
 22 ~~of pupils increases, during the period July 1, 2004, through June 30,~~  
 23 ~~2005, to a number above that which existed in the prior fiscal year, then~~  
 24 ~~those additional pupils in average daily attendance shall be assigned~~  
 25 ~~the divisor, pursuant to section 33-1002, Idaho Code, that would have~~  
 26 ~~otherwise been assigned to the school district or public charter school~~  
 27 ~~had this section not been in force.~~

28 ~~(b)~~ Each student in attendance at a public virtual school shall be  
 29 funded based upon either the actual hours of attendance in the public  
 30 virtual school on a flexible schedule, or the percentage of coursework  
 31 completed, whichever is more advantageous to the school, up to the maxi-  
 32 mum of one (1) full-time equivalent student.

33 ~~(eb)~~ All federal educational funds shall be administered and dis-  
 34 tributed to public charter schools, including public virtual schools,  
 35 that have been designated by the state board of education as a local edu-  
 36 cation agency (LEA), as provided in section 33-5203(7), Idaho Code.

37 (9) Nothing in this section prohibits separate face-to-face learning  
 38 activities or services.

39 (10) The provisions of section 33-1021, Idaho Code, shall apply to pub-  
 40 lic charter schools provided for in this chapter.

41 SECTION 6. That Section 33-5209, Idaho Code, be, and the same is hereby  
 42 amended to read as follows:

43 33-5209. ENFORCEMENT -- REVOCATION -- APPEAL. (1) An authorized char-  
 44 tering entity shall ensure that all public charter schools for which it  
 45 approved petitions, or for which it has responsibility, operate in accor-  
 46 dance with the approved charter. ~~A public charter school or the authorized~~  
 47 ~~chartering entity may enter into negotiations to revise its charter at any~~  
 48 ~~time. A public charter school may petition to revise its charter at any time.~~  
 49 ~~The authorized chartering entity's review of the revised petition shall be~~

1 ~~limited in scope solely to the proposed revisions. In those instances where~~  
2 ~~a non-virtual public charter school submits a proposed charter revision to~~  
3 ~~the public charter school commission and such revision includes a proposal~~  
4 ~~to increase such public charter school's approved student enrollment cap by~~  
5 ~~ten percent (10%) or more, the commission shall hold a public hearing on such~~  
6 ~~petition. The public charter school commission shall provide the board of~~  
7 ~~the local school district in which the public charter school is physically~~  
8 ~~located, notice in writing of such hearing, no later than thirty (30) days~~  
9 ~~prior to the hearing. The public hearing shall include any oral or written~~  
10 ~~comments that an authorized representative of the school district in which~~  
11 ~~the public charter school is physically located may provide regarding the~~  
12 ~~impact of the proposed charter revision upon the school district. Such~~  
13 ~~public hearing shall also include any oral or written comments that any pe-~~  
14 ~~titioner may provide regarding the impact of the proposed charter revision~~  
15 ~~upon such school district.~~

16 (2) If the authorized chartering entity has reason to believe that the  
17 public charter school has done any of the following, it shall provide the  
18 public charter school written notice of the defect and provide a reasonable  
19 opportunity to cure the defect:

20 (a) Committed a material violation of any condition, standard or proce-  
21 dure set forth in the approved charter;

22 (b) Failed to substantially meet any of the student educational stan-  
23 dards identified in the approved charter;

24 (c) Failed to meet generally accepted accounting standards of fiscal  
25 management;

26 (d) Failed to demonstrate fiscal soundness. In order to be fiscally  
27 sound, the public charter school must be:

28 (i) Fiscally stable on a short-term basis, that is, able to ser-  
29 vice all upcoming obligations; and

30 (ii) Fiscally sustainable as a going concern, that is, able to  
31 reasonably demonstrate its ability to service any debt and meet  
32 its financial obligations for the next fiscal year;

33 (e) Failed to submit required reports to the authorized chartering en-  
34 tity governing the charter; or

35 (f) Violated any provision of law.

36 (3) A charter may be revoked by the authorized chartering entity if the  
37 public charter school has failed to cure a defect after receiving reasonable  
38 notice and having had a reasonable opportunity to cure the defect. Revoca-  
39 tion may not occur until the public charter school has been afforded a public  
40 hearing and a reasonable opportunity to cure the defect, unless the autho-  
41 rized chartering entity reasonably determines that the continued operation  
42 of the public charter school presents an imminent public safety issue, in  
43 which case the charter may be revoked immediately. Public hearings shall be  
44 conducted by the governing authorized chartering entity, or such other per-  
45 son or persons appointed by the authorized chartering entity to conduct pub-  
46 lic hearings and receive evidence as a contested case in accordance with sec-  
47 tion 67-5242, Idaho Code. Reasonable notice and opportunity to reply shall  
48 include, at a minimum, written notice setting out the basis for considera-  
49 tion of revocation, a period of not less than thirty (30) days within which

1 the public charter school can reply in writing, and a public hearing within  
2 thirty (30) days of the receipt of the written reply.

3 (4) A decision to revoke a charter or to deny a revision of a charter  
4 may be appealed directly to the state board of education. With respect to  
5 such appeal, the state board of education shall substantially follow the  
6 procedure as provided in section 33-5207(5)(b), Idaho Code. In the event the  
7 state board of education reverses a decision of revocation, the public char-  
8 ter school subject to such action shall then be placed under the chartering  
9 authority of the commission.

10 SECTION 7. That Section 33-5210, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 33-5210. APPLICATION OF SCHOOL LAW -- ACCOUNTABILITY -- EXEMPTION  
13 FROM STATE RULES. (1) All public charter schools are under the general super-  
14 vision of the state board of education.

15 (2) Every authorized chartering entity that approves a charter shall  
16 be responsible for ensuring that each public charter school program approved  
17 by that authorized chartering entity meets the terms of the charter, com-  
18 plies with the general education laws of the state unless specifically di-  
19 rected otherwise in this chapter 52, title 33, Idaho Code, and operates in  
20 accordance with the state educational standards of thoroughness as defined  
21 in section 33-1612, Idaho Code.

22 (3) Each charter school shall comply with the financial reporting re-  
23 quirements of section 33-701, subsections 5. through 10., Idaho Code, in the  
24 same manner as those requirements are imposed upon school districts.

25 (4) Each public charter school is otherwise exempt from rules govern-  
26 ing school districts which have been promulgated by the state board of educa-  
27 tion, with the exception of state rules relating to:

28 (a) Waiver of teacher certification as necessitated by the provisions  
29 of section 33-5205(3)(g), Idaho Code;

30 (b) Accreditation of the school as necessitated by the provisions of  
31 section 33-5205(3)(e), Idaho Code;

32 (c) Qualifications of a student for attendance at an alternative school  
33 as necessitated by the provisions of section 33-5208(3), Idaho Code;

34 (d) The requirement that all employees of the school undergo a criminal  
35 history check as required by section 33-130, Idaho Code; and

36 (e) All rules which specifically pertain to public charter schools pro-  
37 mulgated by the state board of education. Public charter schools autho-  
38 riized by the public charter school commission are also subject to rules  
39 promulgated by the public charter school commission.

40 SECTION 8. That Section 33-5211, Idaho Code, be, and the same is hereby  
41 amended to read as follows:

42 33-5211. ~~ASSISTANCE WITH PETITIONS --~~ TECHNICAL SUPPORT AND INFORMA-  
43 TION. (1) The state department of education shall provide technical assis-  
44 tance to persons or groups preparing or revising charter petitions and to ex-  
45 isting public charter schools in the same manner as such assistance is pro-  
46 vided to traditional public schools and school districts.

1 (2) Upon request, the state department of education shall provide the  
 2 following information concerning a public charter school whose petition has  
 3 been approved:

4 (a) The public charter school's petition.

5 (b) The annual audit performed at the public charter school pursuant to  
 6 the public charter school petition.

7 (c) Any written report by the state board of education to the leg-  
 8 islature reviewing the educational effectiveness of public charter  
 9 schools.

10 (3) At least one (1) person among a group of petitioners of a prospec-  
 11 tive public charter school shall attend a public charter school workshop  
 12 offered by the state department of education. The state department of ed-  
 13 ucation shall provide notice of dates and locations when workshops will be  
 14 held and shall provide proof of attendance to workshop attendees. Such proof  
 15 shall be submitted by the petitioners to an authorized chartering entity  
 16 along with the charter petition.

17 (4) Prior to submission of a petition for a new or conversion public  
 18 charter school to an authorized chartering entity, the state department of  
 19 education must conduct a sufficiency review of the petition and provide to  
 20 the petitioners, in writing, the findings of such review.

21 SECTION 9. That Section 33-5213, Idaho Code, be, and the same is hereby  
 22 amended to read as follows:

23 33-5213. PUBLIC CHARTER SCHOOL COMMISSION. (1) There is hereby  
 24 created an independent public charter school commission, referred to here-  
 25 inafter as the commission, to be located in the office of the state board of  
 26 education, pursuant to section 33-105, Idaho Code. It shall be the respon-  
 27 sibility and duty of the executive director of the state board of education  
 28 acting at the direction of the commission to administer and enforce the pro-  
 29 visions of this chapter, and the director or his designee, shall serve as  
 30 secretary to the commission.

31 (2) The public charter school commission shall adopt rules, subject to  
 32 law, regarding the governance and administration of the commission.

33 (3) The commission shall be composed of seven (7) members:

34 (a) Three (3) members shall be current or former members of boards of  
 35 directors of Idaho public charter schools, and shall be appointed by the  
 36 governor, subject to the advice and consent of the senate; provided how-  
 37 ever, that no current board member of a public charter school authorized  
 38 by the commission shall be eligible for appointment;

39 (b) Three (3) members shall be current or former trustees of an Idaho  
 40 school district, and shall be appointed by the governor, subject to the  
 41 advice and consent of the senate; and

42 (c) One (1) member shall be a member of the public at large not di-  
 43 rectly associated with the Idaho public education system, and shall  
 44 be appointed by the governor, subject to the advice and consent of the  
 45 senate.

46 ~~For the purpose of establishing staggered terms of office, the initial The~~  
 47 ~~term of office for three (3) commission members shall be four (4) years and~~  
 48 ~~thereafter shall be four (4) years; the initial term of office for two (2)-~~  
 49 ~~members shall be three (3) years and thereafter shall be four (4) years; and~~



1 ~~the initial term of office for two (2) members shall be two (2) years and~~  
 2 ~~thereafter shall be four (4) years.~~ In making such appointments, the gov-  
 3 ernor shall consider regional balance. Members of the commission shall hold  
 4 office until the expiration of the term to which the member was appointed and  
 5 until a successor has been duly appointed, unless sooner removed for cause by  
 6 the appointing authority. Whenever a vacancy occurs, the appointing author-  
 7 ity shall appoint a qualified person to fill the vacancy for the unexpired  
 8 portion of the term.

9 (4) All members of the commission shall be citizens of the United States  
 10 and residents of the state of Idaho for not less than two (2) years.

11 (5) The members of the commission shall, at their first regular meet-  
 12 ing following the effective date of this act, and every two (2) years there-  
 13 after, elect, by a majority vote of the members of the commission, a chairman  
 14 and a vice-chairman. The chairman shall preside at meetings of the commis-  
 15 sion, and the vice-chairman shall preside at such meetings in the absence of  
 16 the chairman. A majority of the members of the commission shall constitute a  
 17 quorum. The commission shall meet at such times and places as determined to  
 18 be necessary and convenient, or at the call of the chair.

19 (6) Each member of the commission not otherwise compensated by public  
 20 moneys shall be compensated as provided in section 59-509(h), Idaho Code.

21 SECTION 10. That Section 33-1619, Idaho Code, be, and the same is hereby  
 22 amended to read as follows:

23 33-1619. VIRTUAL EDUCATION PROGRAMS. School districts may offer in-  
 24 struction in the manner described for a virtual school in section 33-5202A,  
 25 Idaho Code. For programs meeting such definition, the school district may  
 26 count and report the average daily attendance of the program's students in  
 27 the manner prescribed in section 33-5208(8) ~~(b)~~, Idaho Code. School dis-  
 28 tricts may also offer instruction that is a blend of virtual and traditional  
 29 instruction. For such blended programs, the school district may count and  
 30 report the average daily attendance of the program's students in the manner  
 31 prescribed in section 33-5208(8) ~~(b)~~, Idaho Code. Alternatively, the school  
 32 district may count and report the average daily attendance of the blended  
 33 program's students in the same manner as provided for traditional programs  
 34 of instruction, for the days or portions of days in which such students at-  
 35 tend a physical public school. For the balance of days or portions of days,  
 36 average daily attendance may be counted in the manner prescribed in section  
 37 33-5208(8) ~~(b)~~, Idaho Code.

38 SECTION 11. That Section 33-5202A, Idaho Code, be, and the same is  
 39 hereby amended to read as follows:

40 33-5202A. DEFINITIONS. As used in this chapter, unless the context re-  
 41 quires otherwise:

42 (1) "Authorized chartering entity" means either the local board of  
 43 trustees of a school district in this state, or the public charter school  
 44 commission pursuant to the provisions of this chapter.

45 (2) "Charter" means the grant of authority approved by the authorized  
 46 chartering entity to the board of directors of the public charter school.

1       (3) "Founder" means a person, including employees or staff of a pub-  
2       lic charter school, who makes a material contribution toward the establish-  
3       ment of a public charter school in accordance with criteria determined by  
4       the board of directors of the public charter school, and who is designated  
5       as such at the time the board of directors acknowledges and accepts such con-  
6       tribution. The criteria for determining when a person is a founder shall not  
7       discriminate against any person on any basis prohibited by the federal or  
8       state constitutions or any federal, state or local law. The designation of a  
9       person as a founder, and the admission preferences available to the children  
10      of a founder, shall not constitute pecuniary benefits.

11      (4) "Petition" means the document submitted by a person or persons to  
12      the authorized chartering entity to request the creation of a public charter  
13      school.

14      (5) "Professional-technical regional public charter school" means a  
15      public charter secondary school authorized under this chapter to provide  
16      programs in professional-technical education which meet the standards and  
17      qualifications established by the division of professional-technical ed-  
18      ucation. A professional-technical regional public charter school may be  
19      approved by an authorized chartering entity and, by the terms of its char-  
20      ter, shall operate in association with at least two (2) school districts.  
21      Notwithstanding the provisions of section ~~33-5206(1)~~ 33-5205(3)(j), Idaho  
22      Code, participating school districts need not be contiguous.

23      (6) "Public charter school" means a school that is authorized under  
24      this chapter to deliver public education in Idaho.

25      (7) "Traditional public school" means any school existing or to be  
26      built that is operated and controlled by a school district in this state.

27      (8) "Virtual school" means a school that delivers a full-time, se-  
28      quential program of synchronous and/or asynchronous instruction primarily  
29      through the use of technology via the internet in a distributed environment.  
30      Schools classified as virtual must have an online component to their school  
31      with online lessons and tools for student and data management.